




City of Santa Fe, New Mexico


Memorandum



Date: August 11, 2021

To: Mayor's Committee on Disability, Quality of Life Committee, Finance Committee, and Governing Body

From: Jesse Guillen, Legislative Liaison
Jennifer Faubion, Council Liaison 

Via: Erin K. McSherry, City Attorney 

RE: Requiring closed captions on publically accessible televisions

EXECUTIVE SUMMARY:

The proposed Bill requires "places of public accommodation" to have closed captions activated on any television that is available to the public. There is an exception if the television is not capable of displaying closed captions.

BACKGROUND:

The Mayor's Committee on Disability ("MCD") unanimously supported a letter of support for this bill and requested that Councilor Villarreal carry it as the sponsor. The letter from MCD states that requiring closed captions will allow those who are deaf or hard of hearing to be informed of what is being said on the television. The proposed bill is modeled after an ordinance the City of Albuquerque adopted in 2019.

ACTION REQUESTED:

Staff recommends approval of the bill as presented

ATTACHMENTS:

Bill
Fiscal Impact Report

underscored material = new
[bracketed material] = delete

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2021-__

INTRODUCED BY:

Councilwoman Renee Villarreal

AN ORDINANCE

**RELATING TO CLOSED CAPTIONS; CREATING A NEW SECTION 7.5 SFCC 1987 TO
REQUIRE PLACES OF PUBLIC ACCOMMODATION TO ACTIVATE CLOSED
CAPTIONING ON TELEVISION RECEIVERS.**

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

**Section 1. [NEW MATERIAL] A new Section 7.5 of SFCC 1987 is ordained to
read:**

7.5 CLOSED CAPTIONING IN PLACES OF PUBLIC ACCOMODATION

7.5-1 Purpose.

The purposes of this section are the following:

- A. To provide inclusion to those members of the public who are deaf or hard of
hearing in places of public accommodation;
- B. To prevent the exclusion, segregation, or denial of service for those who are deaf
or hard of hearing; and
- C. To provide a benefit to all members of the public who are viewing televised or

streamed media in situations in which it is difficult to hear audio.

7.5-2 Definitions.

For purposes of this Section:

Closed Captioning means a user-activated transcript or dialog of the audio portion of a television program that is displayed on a television receiver screen.

Closed-Captioned Television Receiver means a receiver of television or streamed programming that has the ability to display closed captioning, including but not limited to, a television, display screen, digital set top box, and other technology capable of displaying closed captioning for television or streamed programming.

Department means the relevant city department as assigned by the city manager.

Place of Public Accommodation means the following locations:

(1) An inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(2) A restaurant, bar, or other establishment serving food and/or drink;

(3) A place of exhibition of entertainment such as a motion picture house, theater, concert hall, or stadium;

(4) A place of public gathering such as an auditorium, convention center, or lecture hall;

(5) A sales or retail establishment such as a bakery, grocery store, clothing store, hardware store, a shopping center;

(6) Any retail or service establishment such as a department store, laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office,

professional office of a health care provider, or hospital;

(7) A terminal, depot, or other station used for specified public transportation;

(8) A place of public display or collection such as a museum, library, or gallery;

(9) A place of recreation or exercise such as a park, zoo, amusement park, swimming pool, gym, health spa, bowling alley, or golf course;

(10) A place of education such as a day care, preschool, elementary, secondary, undergraduate, or postgraduate private school; and

(11) A social service center establishment such as a day care center, senior citizen center, homeless shelter, food bank, or adoption agency.

Public Area. Any part of a place of public accommodation that is open to the general public.

Regular Hours. The hours of any day in which a place of public accommodation is generally open to members of the general public.

Respondent. Any person who is alleged or found to have committed a violation of regulations established in this section.

7.5-3 Closed Captioning in Places of Public Accommodation.

A. Any place of public accommodation must activate closed captioning, with a yellow text color, or if yellow is not available, white text on a black background, or black text in the largest font style available, on all closed-captioned television receivers that are turned on and operating in any public area during regular hours, except in the following circumstances:

(1) When no receiver of televised or streamed programming of any kind is available in a public area of the place of public accommodations;

(2) The only source or receiver of the televised or streamed programming available in a public area of the place of public accommodation is technically incapable of displaying closed captioning; or

1 (3) If multiple television models are in use and displayed together for sale in
2 a public area and at least one closed-captioned television is available for viewing.

3 B. Powers and duties of the department.

4 (1) The department shall investigate alleged violations of this section and shall
5 have such powers and duties as are necessary and proper for the administration and
6 enforcement of this ordinance.

7 (2) The department shall assess a civil penalty of up to two hundred and fifty
8 dollars (\$250.00) for the initial offense, and five hundred dollars (\$500.00) for each
9 subsequent offense to any respondent who fails to demonstrate compliance within thirty
10 (30) days of a notice of such violation.

11 F. Exclusions.

12 (1) This section shall not be interpreted or applied to diminish or conflict with
13 any requirements of state or federal law. In the event of any conflict, state and federal
14 requirements shall supersede the requirements of this section.

15 (2) This section does not apply to programming that is exempt from closed
16 captioning requirements under state or federal law.

17 APPROVED AS TO FORM:

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20 ERIN K. McSHERRY, CITY ATTORNEY

FISCAL IMPACT REPORT**General Information:**(Check) Bill: X Resolution: _____Short Title(s): Requiring Closed CaptionsSponsor(s): Councilor VillarrealReviewing Department(s): Legislative Services Office/City Attorney's OfficeStaff Completing FIR: Jesse Guillen Date: 8/4/21 Phone: 955-6518Reviewed by City Attorney:  Date: Aug 11, 2021Reviewed by Finance Director:  Date: Aug 13, 2021**Summary:**

The proposed Bill requires that "places of public accommodation" activate closed captions on all televisions that are available to the public, unless the television is not technically capable of displaying closed captions.

Departments Affected:

City Manager/assigned enforcement department

Consequences of Not Enacting Legislation:

There will be no requirement to activate closed captions. The Mayor's Committee on Disability has endorsed this Bill as a necessary measure for those that are deaf or hard of hearing.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:

None identified.

Performance and Administrative Implications:

The City Manager would need to assign investigatory powers to the appropriate department to respond to non-compliance reports.

Fiscal Implications:

Staff time would be needed to respond to non-compliance reports. It is unknown at this time how many non-compliance reports the department would receive. Staff at various City facilities would need to ensure all publicly-accessible televisions have closed captions activated.

Fiscal Impact

 X Check here if no fiscal impact

Expenditures

Expenditure Type	FYE __	FYE __	FYE __	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
<u>Personnel and</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	
<u>Benefits*</u>							
<u>Capital Outlay</u>	\$ _____	\$ _____	\$ _____	_____	_____	_____	
<u>Contractual/</u>	\$ _____	\$ _____	\$ _____		_____	_____	
<u>Professional Services</u>							
<u>Operating</u>	\$ _____	\$ _____	\$ _____		_____	_____	\$ _____
<u>Total:</u>	\$ _____	\$ _____	\$ _____				\$ _____

* This includes all staff time associated with executing the job functions of the proposed legislation.

Expenditure Narrative:

Revenue

Revenue Type	FYE __	FYE __	FYE __	Recurring (R) or Non-recurring (NR)	Fund
General Fund	\$ _____	\$ _____	\$ _____	_____	_____
Special Revenue	\$ _____	\$ _____	\$ _____	_____	_____
CIP	\$ _____	\$ _____	\$ _____	_____	_____
Enterprise	\$ _____	\$ _____	\$ _____	_____	_____
Internal Service	\$ _____	\$ _____	\$ _____	_____	_____
Trust and Agency	\$ _____	\$ _____	\$ _____	_____	_____
Federal	\$ _____	\$ _____	\$ _____	_____	
Other	\$ _____	\$ _____	\$ _____	_____	_____
Total	\$ _____	\$ _____	\$ _____		

Revenue Narrative:

Signature: 

Email: jbguillen@ci.santa-fe.nm.us

Signature: 
Jennifer Faubion (Aug 11, 2021 21:05 MDT)

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